

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

Kenneth Syncere Rivera, #318979,)
a/k/a Kenneth Rivera,)
)
Plaintiff,)
v.)
)
Agency Director, William R. Byars, Jr.;)
SCDC Nutritionist, Marcia Fuller;)
Head Kitchen Supervisor, Evelyn Barber;)
Warden Robert Stevenson, III,)
)
Defendants.)
_____)

Civil Action No.: 8:12-cv-02318-JMC

ORDER AND OPINION

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report") [Dkt. No. 10], filed on September 10, 2012, recommending that Plaintiff's Complaint [Dkt. No. 1] be dismissed without prejudice and without issuance and service of process. Plaintiff brought this action seeking relief pursuant to Title 42 U.S.C. § 1983. The Report sets forth in detail the relevant facts and legal standards on this matter which the court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. "The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination." *Wallace v. Hous. Auth.*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citing *Matthews v. Weber*, 423 U.S. 261, 271 (1976)). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the

court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report [Dkt. No. 10 at 8]. Plaintiff timely filed objections to the Magistrate Judge's Report and Recommendation. [Dkt. No. 12]. Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Therefore, after a thorough review of the Magistrate Judge's Report and Recommendation, Plaintiff objections, and the record in this case, the court **ACCEPTS** the Report and Recommendation [Dkt. No. 10]. For the reasons articulated by the Magistrate Judge, it is therefore **ORDERED** that Plaintiff's Complaint [Dkt. No. 1] is **DISMISSED** without prejudice and without issuance and service of process.

IT IS SO ORDERED.



United States District Judge

February 12, 2013
Greenville, South Carolina